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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,751	01/23/2004	James P. Gates	CTA447	5569
44088	7590	04/03/2006	EXAMINER	
SEAN KAUFHOLD			NEWTON, JARED W	
P. O. BOX 89626			ART UNIT	
SIOUX FALLS, SD 57109			PAPER NUMBER	
			3634	
DATE MAILED: 04/03/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/762,751	Applicant(s) GATES ET AL.	
	Examiner Jared W. Newton	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2006 January 31.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 1 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/23/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This non-final rejection is in reply to the remarks filed January 31, 2006, by which claims 1 and 10 were amended.

Information Disclosure Statement

In the Office Action dated October 18, 2005, the Examiner improperly included a form PTO-892 that duplicated a reference shown on the Information Disclosure Statement (PTO-1449) by the Applicant. A reference may only be included on one of the above mentioned forms, and thus a corrected Information Disclosure Statement has been submitted herewith.

Claim Objections

Claims 1 and 10 are objected to because of the following informalities:

- --said-- should be inserted after "within" in Line 18 of Claim 1;
- --said should be inserted after "within" in Line 31 of Claim 10.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,823,883 to Sears.

Sears discloses a collapsible apparatus comprising: a lower rectangular open loop support 20 and an upper rectangular closed loop support 24, said loops having respective top and bottom sides (see FIG. 2); a plurality of elongated vertical supports 22 each having an upper end and a lower end; a plurality of couplers 26 being attached to each of said upper and bottom supports for removably coupling each of said upper ends to a bottom side of said upper support and said lower ends to said top side of said bottom support such that said upper support is spaced from and positioned over said bottom support; a space between adjacent ones of said vertical supports being open; a cage, defined as a plastic mesh canopy (see Column 2, Lines 26-28) having an upper horizontal wall 14 and a downwardly extending peripheral wall 16, said horizontal wall having a size and shape adapted for abutting said upper support such that said upper support is positioned within said cage, wherein a helium filled balloon may be positioned in said cage such that said horizontal wall prevents the balloon from floating upwardly away from the frame (see FIG. 1).

Claim Rejections - 35 USC § 103

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 1,865,533 to Lutzke, alone.

Lutzke discloses a receptacle comprising: a lower loop support 2 and an upper loop support 1, said loops having respective top and bottom sides; a plurality of elongated vertical supports 4 each having an upper end and a lower end; a plurality of couplers 5 being attached around the perimeter of each of said upper and bottom supports for removably coupling each of said upper ends to a bottom side of said upper support, wherein said couplers 5 bend around said upper support and contact the lower surface thereof, and said lower ends to said top side of said bottom support, wherein said couplers 5 bend around said bottom support and contact the upper surface thereof, such that said upper support is spaced from and positioned over said bottom support; a space between adjacent ones of said vertical supports being open; a cage 11 having an upper planar horizontal wall and a downwardly extending peripheral wall 12, said horizontal wall having a size and shape adapted for abutting said upper support such that said upper support is positioned within said cage, wherein a helium filled balloon may be positioned in said cage such that said horizontal wall prevents the balloon from floating upwardly away from the frame (see FIG. 1).

Lutzke does not disclose said upper and lower supports having a rectangular configuration. The Examiner takes official notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to construct the upper and lower supports as disclosed by Lutzke of a rectangular, or any other shaped configuration. *See In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). The court held that the configuration of the claimed container was a matter of choice which a person of ordinary

skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed container was significant.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,727,700 to Digney, and further in view of US Patent No. 5,560,502 to Hsiung.

Digney discloses a balloon holding device comprising: a cage having a horizontal planar wall 36, and a downwardly extending perimeter wall 12 (see FIG. 2). Digney does not disclose a support structure having upper and lower supports, vertical legs, couplers, and wheels.

Hsiung discloses a collapsible frame structure comprising: a first and second rectangular loop members defining lower and upper supports, said loop members comprising four elongate tubular connectors 112, 113 and four corner members 13,17, said supports having top and bottom surfaces (see FIG. 1); a plurality of elongate vertical supports 110,111 each having upper and lower ends; said corner members comprising first and second female couplers 133,136 disposed perpendicular to each other, and adapted to receive said connectors; and couplers 132 attached to an associated one of said corner members such that each of said corner members has one coupler positioned thereon adapted to receive an upper or lower end of said vertical supports 110,111 (see FIGS. 1 and 4).

The Digney and Hsiung references are analogous art because they are from the same field of endeavor—support structures—and overlap in classification—class 211,

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racks. It would have been obvious to one of ordinary skill in the art at the time of the invention to support the device as set forth by Digney with the framed structure set forth by Hsiung. The motivation would have been to provide a simple and collapsible support structure for the device as set forth by Digney, when said device is unable to be suspended. Digney discloses a ceiling suspended device. Alone, the device to Digney is incapable of being used when not supported by a ceiling; however, Digney discloses the desirability to use said device in a plurality of environments. Digney recites, "Returning to FIG. 1, many display environments have a ceiling which is sufficiently high that the display unit 10 will need to be suspended from the ceiling, rather than directly affixed thereto. In that case, it will not be possible to use the ceiling as the upper retaining member to form the downwardly open interior cavity 26" (see Column 4, Lines 22-27), suggesting the desirability to use the device in various environments. In an environment not having a ceiling, such as outdoors, effective use of the device would require supporting the device from the ground up. Using a support frame or scaffold would be an obvious solution to one skilled in the art, in order to provide the group-up support. The structure as set forth by Hsiung would be particularly successful for meeting this need, due to its ease of construction and its ability to collapse, as well as its abilities to easily move from one area to another, and to be easily stored when not in use.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Digney in view of Hsiung as applied to claims 1-6 above, alone.

Digney in view of Hsiung discloses a device comprising all of the limitations of claims 1-6 as set forth above, but do not disclose wheels. The Examiner takes official notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to attach wheels to the assembly as set forth by Digney in view of Hsiung in order to make said assembly more easily moveable. It is obvious and well known in the art of racks to attach casters, wheels, rollers, or any other means of overcoming frictional forces to a rack in order to provide a simple means of moving said rack from one place to another, without having to overcome large forces due to friction.

Claims 2, 5, and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sears as applied to claim 1 above, and further in view of US Patent No. 6,470,515 to Hsia.

Sears discloses the apparatus as set forth above, but does not disclose said bottom open loop support comprising four connectors, nor wheels.

Hsia discloses a frame comprising upper and lower loops, each of said loops comprising four connectors 311,313 and four corner members 45,46,47,48, and said frame having wheels 451,461,471,481 attached to said lower loop (see FIG. 1).

The Sears and Hsia references are analogous art because they are from the same field of endeavor—collapsible frame structures. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a fourth connector and wheels as disclosed by Hsia to the bottom open loop as disclosed by Sears. The motivation would have been to provide additional support to the lower loop via a fourth

closing connector. The present invention to Sears is susceptible to prying apart of the bottom support connectors when said apparatus is moved from one location to another. The inclusion of a fourth connector would stabilize the overall device. Motivation for including wheels on the apparatus would be that as set forth above—to provide a simple means of moving said apparatus from one location to another by overcoming frictional forces.

Allowable Subject Matter

Claim 10 would be allowable if rewritten to overcome the objection above.

Response to Arguments

Applicant's arguments, see Arguments, filed January 31, 2006, with respect to the rejections to the Peterson and Hill references have been fully considered and are persuasive. The rejections based on said references have been withdrawn.

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent Application Publication No. 2003/0070997 to Ming

US Patent No. 5,920,927 to Thomas

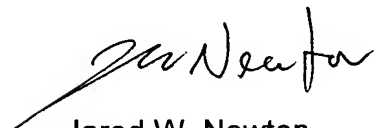
US Patent No. 2,936,771 to Marchfield et al.

US Patent No. 1,588,282 to Wachsman

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jared W. Newton
March 23, 2006
JWN



RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER